

[Waiver 1994-1]

MEMORANDUM

April 6, 1994

TO: Pete Holt, Director
DAVMHS

FROM: Barbara McNally, Executive Secretary
Ethics Commission

SUBJECT: Appointment of Debra Weintraub to AODAAC

The Ethics Commission has received and reviewed your request for permission for Debra Weintraub to serve as a voting member of the Alcohol and Other Drug Abuse Advisory Council (AODAAC).

Ms. Weintraub is a pharmacy manager at Suburban Hospital which currently holds a contract with the County's Department of Addiction, Victim and Mental Health Services (DAVMHS).

Section 19A-11(a) provides that, unless permitted by a waiver, a public employee must not participate in any matter that affects a property or a business in which the public employee has an economic interest. Section 19A-11(b) specifically prohibits a public employee from participating in a matter that involves a business which employs the public employee. Section 19A-4 defines a public employee as any person appointed to a County committee whether or not the person is compensated. Section 11B-52 prohibits any entity from employing a public employee at the same time that the entity has a contract with the County.

The Ethics Commission believes that Ms. Weintraub's participation on AODAAC would violate Section 11B-52 and, to the extent Ms. Weintraub participated in formulating AODAAC recommendations concerning the Driving While Intoxicated Treatment Services Program, her participation would violate Section 19A-11.

Section 19A-8 authorizes the Ethics Commission to waive the provisions of Section 19A-11 and 11B-52 if the Commission finds:

- “(1) The best interest of the County would be served by granting the waiver;
- (2) The importance to the County of a public employee performing his or her official duties outweighs the actual or potential harm of any conflict of interest; and
- (3) Granting the waiver will not give a public employee or class of employees an unfair economic advantage over other members of the public.”

In considering these criteria, the Commission finds the following factors persuasive:

1. Bill 40-91 expressly encourages the appointment of a pharmacist. Ms. Weintraub, as you indicated in your request, is the only candidate who applied to fill this slot which has been vacant since June 1993.
2. The Director of DAVMHS believes that Ms. Weintraub's expertise would greatly benefit the AODAAC.
3. The Commission believes that if Ms. Weintraub discloses her employment relationship with Suburban Hospital and the nature of the contract between Suburban Hospital and the County to the County Executive, the County Council, and, if appointed, the members of the AODAAC, the potential for a conflict of interest or unfair advantage to Ms. Weintraub will be minimal. Under these circumstances, the Ethics Commission believes that the importance to the County of Ms. Weintraub sharing her expertise with AODAAC outweighs any potential conflict of interest and that there will be no unfair advantage given to Ms. Weintraub over other members of the public.

The Ethics Commission grants a waiver to allow Ms. Weintraub to serve as a member of AODAAC subject to the following conditions: Ms. Weintraub must disclose, in writing, to the County Executive and the County Council, her employment relationship with Suburban Hospital and the nature of the contract between the County and her employer. If appointed, Ms. Weintraub must also inform, in writing, the members of AODAAC of her employment relationship with Suburban Hospital and the nature of the contract between the County and Suburban Hospital. A copy of this notification must be forwarded to the Ethics Commission. In addition, Ms. Weintraub must refrain from participating in any AODAAC discussions or votes on any contracts with Suburban Hospital.

If you have any questions regarding this matter, please contact the Ethics Commission.

BMM:dw

cc: Kelly Pelz, Special Assistant to the County Executive